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Florida Noncompete Bill Bucks Trend Toward Tighter Regulations

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By Chris Marr | May 27, 2025

The momentum toward tighter limits including outright bans on businesses' use of employee noncompetes isn't so clear as it was a year ago, as Florida legislators make a novel move to loosen restrictions and other statehouses rethink their approaches.

Legislation (HB 1219) awaiting Gov. Ron DeSantis' (R) signature arguably gives employers in Florida more power than they have through any other state's law to enforce noncompete agreements. It's a sharp contrast to the Federal Trade Commission's now-halted 2024 regulation banning noncompetes nationwide.

> "The general trend has been toward narrowing use of noncompetes," said Eric Ostroff, a Miami attorney with Meland Budwick PA. "The Florida bill goes in the total opposite direction."

Florida's legislature may have cooked up the most pro-noncompete legislation in the nation, but it's not the only state beginning to reverse the previous trend of limiting these types of restrictive covenants. With federal court injunctions obstructing the FTC ban for now, employers face an increasingly complex array of state laws governing the contracts, with little chance of uniformity soon.

The Florida bill's sponsors pitched it as a way to attract high-tech businesses to the state. Ken Griffin and his investment firm Citadel played a role in pushing for its passage, according to Bloomberg News.

The governor's office declined to say whether he supports the bill, but he is widely expected to sign it, given his push for business-friendly policies. Griffin also financially supported the governor's priorities, including defeat of a 2024 ballot

initiative to legalize recreational marijuana in the state.

For contracts that meet certain qualifications including minimum salary thresholds, the Florida measure requires courts to grant an employer's request for injunction blocking a former employee from going to work for a competitor, shifting the burden onto the worker to prove the injunction isn't appropriate.

The provision gives a significant advantage to employers, saving them from having to win a lengthy court battle before they can stop their former worker's alleged contract violation.

The measure protects noncompetes and "garden leave" agreements up to four years—whereas many states consider contracts longer than one or two years unreasonable.

Aside from Florida, Minnesota lawmakers are considering a rollback of the state's sweeping noncompete ban enacted in 2023, and Kansas passed legislation this year that presumes certain customer nonsolicitation agreements valid and enforceable.

Though Minnesota's approach is on the verge of changing, it's been in line with California, North Dakota, and Oklahoma, which deem virtually all employee noncompetes void.

In the middle, there's a wide variety of state-law limitations. At least 11 states plus Washington, D.C., ban noncompetes for low-wage, middle-income, or hourly workers.

For those without such a bright-line test on who can be subject to a noncompete, statutes or case law generally instruct courts to determine enforceability using factors such as duration, geographic scope, jobs or industries covered, and business interests involved.

Restrictions Grow Elsewhere

Some states passed legislation this year to tighten certain restrictions on noncompetes, including Wyoming (SF 107) and Virginia (SB 1218).

New York lawmakers are again considering a ban (S4641A) on noncompetes for all

but the highest paid workers. The Senate Labor Committee approved a version May 14 allowing noncompetes only for workers earning more than $500,000 annually, with many health-care professionals exempt regardless of income level.

But only 18 months ago, Gov. Kathy Hochul (D) vetoed a bill banning virtually all noncompetes. At the time, she was reported as seeking a compromise to allow the contracts for those making more than $250,000.

“It will be interesting to see what happens in New York, after Hochul vetoed the ban,” said Russell Beck, attorney at Beck Reed Riden LLP. If the $500,000 threshold passes, “very few people could be bound by a noncompete, outside the financial services industry.”

Outright bans on these contracts have been a tough sell for state lawmakers. Like Hochul, the governors of Maine and Rhode Island vetoed them within the last two years.

Washington, D.C., passed a ban in 2020 and then walked it back to apply a $150,000 salary threshold instead.

Minnesota legislators are pushing their rollback as part of budget negotiations. The House version of a labor omnibus bill would allow noncompetes for employees making at least $200,000 if they work with company trade secrets, or $500,000 regardless of job duties.

“If Minnesota walks back the ban, that would be huge,” Beck said, in terms of signaling that businesses can’t tolerate outright bans.

Not ‘Open Season’

Even in Florida, attorneys say employers should be strategic about their use of noncompetes—applying them only to employees when there’s a legitimate business need such as keeping trade secrets or customer lists safe from competitors.

Businesses shouldn’t view the Florida bill’s passage “as open season to use noncompetes for any and all employees,” said Stefanie Camfield, associate general counsel at HR consulting firm Engage PEO. If employers use them too broadly, such as for low-wage hourly workers, “it’s going to result in further federal scrutiny of

noncompete agreements."

Employers also shouldn't assume federal enforcement is off the table because of Republicans regaining control in Washington, Beck said. Support for regulating noncompetes doesn't always follow party lines, he added.

The FTC in March moved to pause its appeals of the injunctions blocking its nationwide rule. FTC Chairman Andrew Ferguson voted against the regulation as a commissioner in April 2024 and said the commission lacked authority to pass it.

But Ferguson in a February memo called for creation of an FTC labor markets task force to pursue enforcement against unfair, deceptive, and anti-competitive business practices—including certain uses of employee noncompetes.

"I expect the FTC will be bringing individualized enforcement actions," Beck said, similar to ones the agency announced in January and March of 2023 . The commission wants to "make a point to companies that are excessively using noncompetes that they shouldn't be doing that."

Read more here.